

Notice of Allowability

Application No.

09/990,080

Examiner

Malgorzata A. Walicka

Applicant(s)

MORIN, GREGG B.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Jan. 12, 2006.
2. ☒ The allowed claim(s) is/are 1,4,5,10,12 and 23-28.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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The Amendment and Response to Office Action under 37 CFR § 1.111 filed on Jan. 12, 2006 containing amendments to the specification and claims is acknowledged. Claims 2-3, 6-9, 11 and 13-21 have been currently cancelled; claim 8 has been previously cancelled. Claims 4-5, 12 and 22 are amended; new claims 23-28 have been added. Claims 1, 4-5, 10, 12, and 22-28 are pending. After the current amendment, claims 1-7, 9-17 and 21 are under examination. Claims 18-20 and 22 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

DETAILED ACTION

1. Objections

1.1. Specification

Objection to Table 1 made in previous Office actions in relation to claims 6 and 7 is moot, because claims 6 and 7 have been canceled.

2. Rejections

2. 1. 35 USC, section 112, second paragraph

Claims 3, 5, 16 and 17 were rejected under this paragraph in previous Office action.

Rejection of claims 3 and 16-17 is moot because the claims have been canceled.

Rejection of claim 5 is withdrawn because the claim has been amended.

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2.2. 35 USC, section 112, first paragraph

Lack of written description

Claims 2, 3, 6, and 7 were rejected for new matter in the Office action of October 17, 2005. This rejection is moot because the claims have been canceled.

Claims 2, 3, 4-7 and 12 were rejected in the Office Action of October 17, 2005 for lack of sufficient written description.

Rejection of claims 2-3 and 6-7 is moot because the claims have been canceled.

Rejection of claim 5 and 12 is withdrawn because the claims have been amended.

Scope of enablement

Claims 9, 11, 12, 13-17 and 21 were rejected for lack of enablement for the scope of invention.

Rejection of claims 9, 11, 13-17 and 21 is moot because the claims have been canceled.

Rejection of claim 12 is withdrawn, because the claim has been amended.

3. 35 USC section 102 (e)

Claim 13 was rejected in previous Office Action as anticipated by the US Patent 6,846,662. This rejection is moot because the claim has been cancelled.

4. Examiner's amendment

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- i) Please cancel claim 22
- ii) In claim 1, the first line, please replace "a sequence" with –the sequence–.
- iii) Please amend claim 4 as follows.

4. A polypeptide lacking telomerase enzyme activity, wherein said polypeptide comprises full-length hTERT (SEQ ID NO: 2), except for one or more deletions(s) [that include] selected from the group consisting of:

- a) residues 560-565,
- b) residues 930-934,
- c) at least 10 consecutive amino acids between residues 323-450,
- d) at least 10 consecutive amino acids between residues 637-660,
- e) at least 10 consecutive amino acids between residues 748-766,
- f) at least 10 consecutive amino acids between residues 1055-1071, or
- g) at least 10 consecutive amino acids between residues 1084-1116.

Authorization for this examiner's amendment was given in a telephone interview with Applicant's representative Michael Schiff on March 13, 2006.

5. Allowance

Claims 1, 4-5, 10, 12 and 23-28 are allowed for the reasons explained in the Office action of Oct. 17, 2005.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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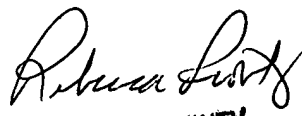
accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Malgorzata A. Walicka whose telephone number is (571) 272-0944. The examiner can normally be reached on Monday-Friday from 10:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, can be reached on (571) 272-0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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